

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMES F. CAHILL,

Petitioner,

-v-

9:21-CV-833

CHRIS MILLER,

Respondent.

APPEARANCES:

OF COUNSEL:

JAMES F. CAHILL

Petitioner, Pro Se

99-B-2298

Great Meadow Correctional Facility

Box 51

Comstock, NY 12821

HON. LETITIA JAMES

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JODI A. DANZIG, ESQ.

Ass't Attorney General

DAVID N. HURD

United States District Judge

ORDER ON REPORT & RECOMMENDATION

On July 23, 2021, *pro se* petitioner James Cahill (“petitioner”) filed this petition seeking habeas corpus relief. Dkt. No. 1. Petitioner also sought leave to proceed *in forma pauperis* (“IFP application”). Dkt. No. 2. Although

his IFP application was initially denied as incomplete, Dkt. No. 3, petitioner re-filed his request with the appropriate documentation, Dkt. No. 4, and his application was later granted, Dkt. No. 6.

On August 12, 2021, U.S. Magistrate Judge Thérèse Wiley Dancks ordered respondent Chris Miller, the Superintendent of Great Meadow Correctional Facility, to answer or respond to the petition. Dkt. No. 7. Thereafter, respondent moved to dismiss the petition as untimely. Dkt. Nos. 12, 14. Although petitioner received multiple requests for an extension of time in which to reply to the respondent's motion to dismiss, Dkt. Nos. 15–19, he ultimately failed to do so, *see id.*

On August 16, 2022, Judge Dancks advised by Report & Recommendation (“R&R”) that the petition be denied and dismissed as untimely filed and ineligible for tolling or other equitable exceptions. Dkt. No. 20.

Petitioner has not filed objections, and the time period in which to do so has expired. *See* Dkt. No. 20. Upon review for clear error, the R&R will be accepted and adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

ORDERED that

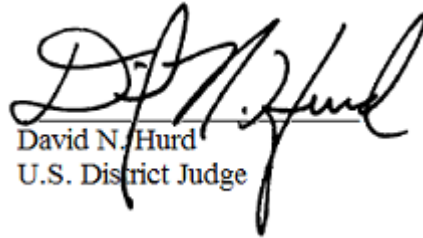
1. The Report & Recommendation is ACCEPTED;
2. The petition is DENIED and DISMISSED;
3. No Certificate of Appealability shall be issued; and

4. Any further request for a Certificate of Appealability must be addressed to the Court of Appeals in accordance with Rule 22(b) of the Federal Rules of Appellate Procedure.

The Clerk of the Court is directed to terminate the pending motions, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.

Dated: September 8, 2022
Utica, New York.



David N. Hurd
U.S. District Judge